

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

NELSON R. SANTANA
Fed. Reg. No. 24213-038
VS.

U.S. DEPT. OF JUSTICE

DOCKET NO. 6:08-MC-0020
SECTION P

MAGISTRATE JUDGE METHVIN

MEMORANDUM ORDER

On July 7, 2008, Nelson R. Santana, an inmate in the custody of the Federal Bureau of Prisons, who is incarcerated at the Pine Prairie Correctional Center, Pine Prairie, Louisiana, submitted a *pro se* pleading entitled, “Motion for Relief for Deniel [sic] by EOUSA Under Privacy Act.” Therein Santana alleged that he wrote a letter to the Executive Office for United States Attorney (EOUSA) requesting copies of exhibits (surveillance tape and DVD, telephone records, and telephone chart) that were introduced into evidence by the government in the criminal prosecution that resulted in his conviction and current imprisonment.¹ Santana further claims that on February 1, 2007 the Department of Justice assigned his request an identifying number, 07-158, and then, on March 20, 2008 the EOUSA denied his request for release of the records in question. Santana asks the court to order the EOUSA to provide him all requested documents pertaining to his criminal case which were argued and brought as evidence in his criminal trial because all these requested documents are public records.

¹ Santana was convicted of conspiracy to distribute and possession with intent to distribute cocaine on September 24, 2002 in the United States District Court for the District of New Hampshire. He was sentenced to serve 121 months in prison. *United States v. Nelson Santana*, 1:02-cr-00045. Santana’s attempts to obtain copies of the exhibits from the Clerk of the United States District Court have proven futile; according to the Clerk, the exhibits were returned to the United States Attorney at the conclusion of the trial and are therefore no longer in the custody of the Clerk of Court. See 1:02-cr-00045 at rec. docs. 115-119.

Santana invokes the jurisdiction of the court pursuant to 5 U.S.C. §552(a)(4)(B) which provides in part, “On complaint, the district court of the United States in the district in which the complainant resides or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” (Emphasis supplied)

Santana’s “Motion” is not a complaint and does not conform to the pleading requirements of F.R.C.P. Rule 8; further, Santana has failed to submit either the \$350.00 costs to file his complaint or a completed application to proceed *in forma pauperis*. He must either send \$350.00 or a completed *in forma pauperis* application on the proper form in order to proceed.

Therefore

IT IS ORDERED that within thirty (30) days of this order, Nelson Santana amend his pleadings by submitting a (1) complaint which conforms to the requirements of Rule 8 of the F.R.C.P.; and, (2) the full \$350.00 filing fee or, a completed application to proceed *in forma pauperis* to the Clerk of Court, 300 Fannin Street, Suite 1167, Shreveport, LA 71101-3083.

FAILURE TO AMEND AS INDICATED WILL RESULT IN THE PLEADINGS BEING STRICKEN FROM THE RECORD AND RETURNED TO THE LITIGANT.

Signed at Lafayette, Louisiana, on July 11, 2008.



Mildred E. Methvin
United States Magistrate Judge
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